

## **Chapter 29.04. Nonconforming Buildings and Uses.**

### **~~29.04.010. Maintenance Permitted.~~**

~~A nonconforming building or structure may be maintained.~~

### **29.04.010. Continuance of Nonconforming Use of Buildings, Structures and Land.**

Except as otherwise provided in this Title, a nonconforming use of land or a structure may be continued.

A. Determination of Nonconforming Buildings and Uses. All matters regarding the nonconforming use of buildings and land shall be determined by the Board of Adjustment. Upon application, after public hearing on the matter, the Board of Adjustment shall determine if the use or building is nonconforming with respect to the current provisions of this Chapter. The Zoning Administrator may determine routine and uncontested requests to verify nonconforming uses as provided in Section 29.02.040 of this Title and the rules adopted by the Board of Adjustment.

B. Alteration or Modifications to Nonconforming Buildings and Structures. Nonconforming buildings and structure with respect to setbacks or height may be continued. Additions, enlargements or structural alterations may be made to the extent that they comply with all requirements of the Brigham City Code or conform to the provisions of Section 29.02.040 of this Title.

C. Nonconforming Use of Land. Except as otherwise provided by law, including statutory and case law, nonconforming use of land lawfully existing on the effective date of the ordinance rendering it nonconforming may be continued and maintained provided such nonconforming use shall not be expanded or extended into any other open land, except as otherwise provided in this Chapter. If the nonconforming use is discontinued for a continuous period of more than one year, it shall constitute an abandonment of the use and any future use of such land shall conform to the provisions of the zone in which it is located, except for single-family dwellings.

D. Nonconforming Use of Buildings and Structures. The nonconforming use of a building or structure lawfully existing on the effective date of the ordinance rendering it nonconforming may be continued and the building or structure maintained, and the use may be expanded or extended throughout such building or structure provided no structural alterations, except those permitted by law, are proposed or made for the purpose of extension or expansion. (The addition of a solar energy device to a building shall not be considered a structural alteration.) If such nonconforming use is discontinued for a continuous period of more than one year, it shall constitute an abandonment of the use and any future use of the building or structure shall conform to the provisions of the zone in which it is located.

E. Change in Status of Nonconforming Use. If a nonconforming use is discontinued, it may be succeeded, upon approval of the Zoning Administrator, as provided in Section 29.02.040 of this Title, by an equally intensive or less intensive nonconforming use, provided such change is effected within one year from the first day of discontinuance. After a change to a less intensive use occurs, the use may not change back to a more intensive use.

F. Alterations or Modifications to Nonconforming Use. A use which has been declared nonconforming shall not be enlarged or moved except as provided in Section 29.02.040 of this Title.

G. Reconstruction of Nonconforming Building or Structure Partially Destroyed. A nonconforming building or structure or a building or structure occupied by a nonconforming use which is damaged or is destroyed by fire, flood, wind, earthquake or other calamity or Act of God, or the public enemy, or is removed due to dilapidation, may be restored and the occupancy or use of such building, structure, or part thereof, which existed at the time of such damage or destruction may be continued or resumed, provided that such restoration is started within a period of one (1) year and is diligently prosecuted to completion as evidenced by an active building permit. If any such restoration is not commenced within one (1) year, every future building or structure occupying the portion of the land on which the building was located shall conform to the provisions of this Title.

H. Amortization of Nonconforming Uses. Except as otherwise provided by the Utah Code, the Board, under authorization of the Utah Code, may provide for the timely modification or removal of a nonconforming structure or use of land. After appropriate financial studies to determine a valid amortization schedule, the Board of Adjustment may establish a reasonable time period during which the owner may recover or amortize the amount of investment in the nonconforming use, and after which the nonconforming use shall be modified or removed in order to comply with the General Plan and zoning ordinance.

I. *Legal nonconforming status of school district property shall terminate upon a finding that the property has ceased to be used for school district purposes.*<sup>1</sup>

**~~29.04.020. Repairs and Alterations.~~**

~~Repairs and structural alterations may be made to a nonconforming building or to a building housing a nonconforming use.~~

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**~~29.04.030. Additions, Enlargements, and Moving.~~**

~~A. A building or structure occupied by a nonconforming use or a building or structure nonconforming as to height, area, or yard requirements shall not be added to or enlarged in any manner or moved to another location on the lot unless~~

~~1. Such addition, enlargement, or moving to another location on the lot conforms to all regulations of the zone in which it is located, or~~

~~2. A permit for a special exception is authorized by the Board of Adjustment, which, after hearing shall find:~~

~~a. The addition, or enlargement of, or moving of the building to another location on the lot will not significantly adversely affect adjoining property.~~

~~b. That the proposed change will not impose any unreasonable burden upon, nor appreciably lessen the enjoyment of property by residents located in the vicinity of the nonconforming use or structure.~~

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**~~29.04.040. Alteration Where Parking Insufficient.~~**

~~A building or structure lacking sufficient automobile parking space in connection therewith as required by this Ordinance may be altered or enlarged provided additional automobile parking space is supplied to meet the requirements of this Ordinance for such alteration or enlargement.~~

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**~~29.04.050. Restoration of Damaged Buildings.~~**

~~A nonconforming building or structure or a building or structure occupied by a nonconforming use which is damaged or is destroyed by fire, flood, wind, earthquake or other calamity or Act of God, or the public enemy, may be restored and the occupancy or use of such building, structure, or part thereof, which existed at the time of such damage or destruction may be continued or resumed, provided that such restoration is started within a period of one (1) year and is diligently prosecuted to completion.~~

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**~~29.04.060. One-year Vacancy.~~**

~~A building or structure or portion thereof occupied by a nonconforming use, which is, or hereafter becomes, vacant and remains unoccupied by a nonconforming use for a continuous period of one (1) year, except for dwellings, shall not thereafter be occupied except by a use which conforms to the use regulations of the District in which it is located.~~

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**~~29.04.070. Continuation of Use.~~**

~~The occupancy of a building or structure by a nonconforming use, existing at the time this Ordinance became effective, may be continued.~~

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**~~29.04.080. Occupation Within One Year.~~**

~~A vacant building or structure may be occupied by a use for which the building or structure was designed or intended, if so occupied within a period of one (1) year after the use became nonconforming.~~

**~~29.04.090. Change of Use.~~**

~~The nonconforming use of a building or structure may not be changed except to a conforming use; but where such change is made, the use shall not thereafter be changed back to a nonconforming use.~~

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<sup>1</sup> Ordinance No. 01-44, dated 12/20/01

**~~29.04.100. Expansion Permitted.~~**

~~\_\_\_\_\_ A nonconforming use may be extended to include the entire floor area of the existing building in which it is conducted at the time the use became nonconforming.~~

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**~~29.04.110. Nonconforming Use of Land.~~**

~~\_\_\_\_\_ The nonconforming use of land, existing at the time this Ordinance became effective, may be continued, provided that no such nonconforming use of land shall in any way be expanded or extended either on the same or on adjoining property, and provided that if such nonconforming use of land, or any portion thereof, is abandoned or changed for a period of one (1) year or more, any future use of such land shall be in conformity with the provisions of this Ordinance.~~